

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.622(b),)	MM Docket No. 00-133
Table of Allotments,)	RM-9895
Digital Television Broadcast Stations.)	
(Portland, Maine))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 3, 2004

Released February 11, 2004

By the Chief, Video Division:

1. At the request of HMW, Inc. ("HMW"), licensee of station WPXT, Portland, Maine, the Commission has before it the *Further Notice of Proposed Rule Making*, 17 FCC Rcd 3509 (2002), which proposed the substitution of DTV channel 43 for station WPXT assigned DTV channel 4 at Portland.

2. Initially, the Commission issued the *Notice of Proposed Rule Making*, 15 FCC Rcd 13350, (2000); at the request of HMW proposing the substitution of DTV channel 36 for DTV channel 4. In response to the *Notice*, HMW filed comments supporting its proposal. Concurrently, the Commission's staff forwarded a request to the Canadian government soliciting its approval of HMW proposal since the community of Portland is located within 400 kilometers of the U.S.-Canadian border. After the close of the comment period, the Canadian government notified the Commission that HMW proposal failed to provide protection to co-channel Canadian DTV allotments at Thetford-Mines, Granby, St-Jerome located in Quebec, and McAdam located in New Brunswick. In order to resolve the conflicts, HWM submitted an amendment proposing the substitution of DTV channel 43 in lieu of DTV channel 36.

3. In response to HMW's amended proposal, the Commission issued the *Further Notice* seeking the substitution of DTV channel 43 for station WPXT assigned DTV channel 4. HMW filed comments reaffirming its intention to apply for DTV channel 43, if allotted.

4. We believe the public interest would be served by allotting DTV channel 43, since it will enable station WPXT-DT to eliminate Canadian interference conflicts and prevent the displacement of LPTV station W04BS at Bethel, Maine. DTV channel 43 can be allotted to Portland, Maine, as proposed, in compliance with the principle community coverage requirement of Section 73.625(a) at coordinates 43-51-06 N. and 70-19-40 W. In addition, we find that this channel was approved by the Canadian government and is acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2) for Station WPXT-DT with the following specifications:

<u>State & City</u>	<u>DTV Channel</u>	<u>DTV power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop. (thous.)</u>
Portland, Maine	43	750	265	670

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 29, 2004, the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Portland, Maine	4, 38, 43, 44

6. IT IS FURTHER ORDERED, That within 45 days of the effective date of this *Order*, HMW, Inc. shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying DTV Channel 43 in lieu of DTV Channel 4 for station WPXT-DT.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Pam Blumenthal, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau